

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
July 13, 2004

The meeting was called to order at 6:30 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Woodruff

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. to discuss exempt public records and employment related issues under ORS 192.660(2)(f) and (h).

City Manager Monahan reviewed the parameters for the conduct of Executive Sessions.

Executive Session recessed at 6:32 p.m.

Study Session convened at 6:45 p.m.

- STUDY SESSION

> REVIEW COUNCIL GROUNDRULES

Mr. Monahan noted the Council is required to review its groundrules each year in July or August, and suggested this item be scheduled at the Council's August 17 workshop meeting. He asked Council to submit comments or suggestions regarding the groundrules by July 30. Council concurred with Mr. Monahan's suggested schedule.

> HEARING PROCESS FOR JULY 27, 2004

Community Development Director Hendryx distributed and reviewed a draft press release regarding the Bull Mountain Annexation Plan Public Hearing Details (Agenda Item No. SS1, Exhibit 1) which will be issued July 14 about the hearing on July 27. The press release explains where copies of the Bull Mountain Annexation Plan and staff reports will be available, testimony time limits, the conduct of the meeting, and the possibility of continuation of the hearing to July 28 and 29.

Mr. Monahan noted that the business meeting on July 27 will begin at 6:30 p.m. with the hearing on the Bull Mountain Annexation Plan scheduled to begin at 7:30 p.m. He explained the anticipated overflow crowd will be accommodated in the City Hall lobby and the library, with city staff located in each area calling out names of the next three to five citizens scheduled to speak. As their names are called, citizens will be directed to make their way to the reserved seating area in the Town Hall to wait for their turn to testify. There will be a time limit imposed on all speakers.

Councilor Woodruff suggested flexibility for the hearing, with the possibility of allowing a block of time for representatives of both the CPO 4B and Friends of Bull Mountain, and letting them manage how that time is used.

Councilor Moore concurred this process would reduce duplication.

Mayor Dirksen responded this would work for those who were part of the organized groups, but not for other speakers.

Councilor Sherwood expressed her desire for speakers to avoid repeating what previous speakers had already stated. She hoped that the introduction Mayor Dirksen would make at the beginning of the hearing would request that speakers not duplicate what others have already stated.

Mayor Dirksen commented that two minutes was too short, and suggested that speakers be given three minutes, which would not include the time when they are stating their name and address.

Mr. Monahan stated the front row would be reserved for speakers, and reviewed how the timing system would work.

Council concurred to allow each person to speak for three minutes during the hearing.

Mr. Monahan explained the library will be closing July 16 and will be empty on July 27. The plan is to use the main area of the library as well as the Puett Room which will hold 40 to 50 people, for overflow crowds. Computer monitors will be available for people to see and listen to the proceedings. In addition, air conditioning will be on. Staff determined that the Water District Building auditorium was too far away from Town Hall for people to be located to listen to the hearing and then get to Town Hall when their name was called to testify. Time limits would be strictly followed. While Mayor Dirksen conducts the meeting, he would assist in timing the speakers. Mr. Monahan explained this was a land use action which required that certain criteria be followed for the conduct of the hearing. No public demonstrations, booing, and similar actions would be allowed.

Mr. Hendryx asked Councilors to notify him of any changes to the draft press release, as the press release would be sent to the media in the morning.

Mr. Monahan indicated copies of the staff report would be available at the police window because the library will be closed. The meeting on July 27 would be telecast; however if the hearing is continued to July 28th or 29th, the meetings would be taped in order to be shown on the monitors, but not rebroadcast. Mr. Monahan stated if citizens wanted to include information in the Council packet, the deadline to submit that material is noon on July 22. The hearing is a legislative action, with the

Business Meeting beginning at 6:30 p.m., and the hearing on the Bull Mountain Annexation Plan will start at 7:30 p.m.

The Council concurred with the proposed public hearing details for the Bull Mountain Annexation Plan Public Hearing.

> ADMINISTRATIVE ITEMS

- Mr. Monahan explained in the past, Library Director Margaret Barnes was the primary liaison to the Cooperative Library Advisory Board (CLAB), and he was the alternate. Meeting location rotated among the member cities. In the past, CLAB involvement ranged from recommending placement of the operating levy on the ballot to hiring the library director.

Mayor Dirksen asked if it was more appropriate for the primary liaison be senior library staff with a member of the council being the alternate.

Mr. Monahan replied that worked well.

Councilor Sherwood volunteered to be appointed as alternate if Ms. Barnes was the primary appointment. Mr. Monahan noted he would forward the information to CLAB.

- Mr. Monahan indicated WCCLS held two votes last week. The first motion to recommend to the Washington County Board of Commissioners that they place the library levy on the November 2006 ballot failed by a vote of 4-6; the second motion to recommend to the Washington County Board of Commissioners that the library levy be placed on the November 2004 ballot passed by a vote of 8-2.
- Calendar Review
July 20, City Council Workshop meeting
July 27, City Council Meeting – Business Meeting
July 28, July 29, and August 3 - City Council possible carry-over dates.
- Mr. Monahan indicated Metro Councilor Carl Hosticka will hold a meeting at Tigard Town Hall with elected officials from the area that he and Mayor Dirksen will be attending at 5 p.m. on July 15. Other Councilors may attend but this would not be a special meeting that would need to be noticed.
- Mayor Dirkson explained that when he became mayor, he had proposed holding a community/citizen fair. He has worked with Assistant to the City Manager Liz Newton on this proposal.

Ms. Newton explained the Tigard Blast is being held the same weekend on September 18, and she has been working with Tyler Ellenson to combine the two events. There will be a parade on Burnham Street, with the parade starting in the Verizon lot. There will be displays on Burnham Street relating to City programs, such as the skatepark, the Youth Advisory Council, and departments such as Public Works, Police, and Tualatin Valley Fire & Rescue. The intent will also tie activities to the new library. Other organizations such as soccer clubs, churches, and gymnastic programs, may be invited to participate as well.

The Council concurred to proceed with the Citizens Fair on September 18 as described.

- Mr. Hendryx explained that Metro and the Oregon Department of Transportation (ODOT) received a \$250,000 grant to study special transportation corridors in the metropolitan area. Tigard has been asked to submit the 99W corridor as a possible study area as it experiences severe impacts. Other proposed transportation corridors might include Beaverton's Beaverton-Hillsdale Highway and 99W from I-5 south to King City. The study would be managed by Metro, but would focus on the selected transportation corridors. It is not yet known what the focus would be, or what the outcomes might be. Metro asked for a commitment from city councils and surrounding communities if their corridor area was selected for study. Some outcomes for study areas might result in being required to change land use designs, frontage requirements and access improvements onto these impacted corridors. If the 99W corridor is selected, he would keep the Council informed what the City's obligations and commitments might be.

Councilor Sherwood and Mayor Dirksen indicated their interest is having 99W corridor considered by Metro.

Councilor Moore commented he is a member of the I-5/217 Corridor Study committee. With over 30 representatives on that committee, sometimes it is hard to accomplish much, but he felt it was a worthwhile project.

Councilor Sherwood compared this to the committee studying affordable housing issues.

- Mr. Monahan stated he had been told last week that King City would probably submit its financial information to the Council at tonight's meeting. If that is the case, he and other City staff was prepared to first

make copies for each Councilor and then assess the information and prepare an analysis for the Council to review.

- Councilor Sherwood asked if Council was looking at the CF Tigard school property.

Mr. Monahan explained that other buildings were being demolished and that the cafeteria/multi-purpose building might not be demolished. He and several city staff members looked at the building to see if there was any potential for city use. He noted all the electrical and heating for this building came through the buildings being torn down, but staff felt it could be preserved the way it was. There is potential but no current program has been identified to use the building. Regarding the question of whether it should be preserved, the answer is probably yes, for a future park and recreation use. Some people from the School District were present during the visit. He thought an arrangement could be made to preserve the building. There was interest by Broadway Rose to save the building for some future use. The question for the School District is whether to spend several thousand dollars to preserve an asset that could be used as community room, but the School Board might have a different view. There have been discussions with the School District about preserving this building. What he said when he visited the property was that he did not believe the City had identified any need for it, but he hoped that the building could be saved.

Study session recessed at 7:30 p.m.

1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the City Council and Local Contract Review Board to order at 7:33 p.m.
- 1.2 Roll Call: Mayor Dirksen, Councilors Moore, Sherwood and Woodruff were present; Councilor Wilson was excused.
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports
Councilor Sherwood indicated she had a report to make.
- 1.5 Call to Council and Staff for Non-Agenda Items
Mr. Monahan noted that items #8 and #7 needed to be switched, and the City Manager's Agreement would be added to the agenda under Non-Agenda items.

2. VISITOR'S AGENDA

- Representative from the Tigard Area Chamber of Commerce – did not attend

- Keshmira McVey, 13525 SW Beef Bend Road, unincorporated Bull Mountain, read a statement relating to posting signs concerning the Bull Mountain Annexation public hearing on July 27 (Agenda Item #2, Exhibit 1). Ms. McVey indicated that some of their signs had been removed. She noted of the 13 signs that had been placed, only three remain.

Mr. Monahan replied he did not know of anyone removing signs.

Ms. McVey stated that Tigard's Code Enforcement Officer Christine Darnell had indicated signs were inappropriately placed.

- Larry Gage, 15149 SW Cabernet Drive, unincorporated Bull Mountain area resident, requested that Tigard City Council postpone taking action on the Bull Mountain Annexation Plan for nine months in order to give Bull Mountain residents time to study all available options. Mr. Gage read a statement into the record (Agenda Item No. 2, Exhibit 2), and indicated that letters from Metro Councilor Carl Hosticka (Agenda Item No. 2, Exhibit 3), State Representative Philip Yount (Agenda Item No. 2, Exhibit 4), State Representative Jerry Krummel (Agenda Item No. 2, Exhibit 5), Citizen Participation Organization CPO 4B signed by Holly Shumway and Ken Henschel (Agenda Item No. 2, Exhibit 6), Citizen Participation Organization CPO 4K by Kathy Stallkamp and LuRee Krygier (Agenda Item No. 2, Exhibit 7), and King City Mayor James Wilkinson were included with his statement (Agenda Item No. 2, Exhibit 8). In addition, petitions were attached (Agenda Item No. 2, Exhibit 9) which included the following statement: "We, the residents of unincorporated Bull Mountain residing south of Bull Mountain Road, respectfully request the Tigard City Council to delay for nine months its scheduled July 2004 vote on whether to put the annexation matter on the November 2004 ballot. The purpose of this request is to offer us a reasonable opportunity to explore all annexation options." The petitions were signed by 1,032 residents living on unincorporated Bull Mountain. Mr. Gage stated that if the Tigard City Council were to grant this nine-month delay, it would avoid litigation that would be filed if the Bull Mountain Annexation is put on the November 2004 ballot.
- Dick Franzke, 14980 SW 133rd Ave., Tigard, Oregon, stated tonight when he asked to see a copy of the Council's groundrules, the staff person signing people in could not find a copy. He felt that the two-minute time limit is not sufficient amount of time to testify about such an important and complex issue as this.

Mayor Dirksen stated the July 27 hearing is a land use proceeding and everyone who wishes will get an opportunity to testify. The Council has set three minutes per person to allow everyone a chance to testify. Mayor Dirksen pointed out the June 22 meeting was a Council Agenda item that did not require public comment,

but had chosen to take public comment. In that regard, Council had complete control over how much time each person could speak and whether or not public testimony would be taken at all.

Mr. Franzke responded three minutes still would not be sufficient time for everyone to present their view, and maybe there is a better way to allocate time between the people who have very little to say and those talking about more complex issues, but each person deserves time to present their views.

Councilor Woodruff pointed out that Council discussed the issue of organizing that public hearing including time limits for the upcoming meeting on July 27 in their earlier study session. He noted that Lisa Hamilton-Treick attended that meeting and might share information from that meeting with him.

- Gretchen Buehner, 13249 SW 136th Place, Tigard, Oregon, stated that her step-son, Josh, was selected to be a member of the United States Rowing Team in the upcoming Olympic Games.
- Charles Radley, 15729 SW Colyer Way, Tigard, Oregon, asked for clarification on the hearing on the Bull Mountain Annexation Plan on July 27, and the item on the August 10 Council Agenda.

Mr. Monahan replied the July 27 hearing is a legislative land use hearing on the annexation plan. Council is scheduled to take action on the plan on July 27, but there is a possibility that the hearing could be continued to July 28 and July 29. If Council adopts the Bull Mountain Annexation Plan, the Council has tentatively placed consideration of the ballot title on the Council's August 10 meeting agenda to place the issue on the November 2, 2004 ballot.

Mayor Dirksen explained this is a multi-step process, where the Annexation Plan is first considered, and then there is a potential to put the issue on the November 2, 2004 ballot for voter consideration.

- Holly Shumway, 14535 SW Woodhue, unincorporated Bull Mountain, asked how the public testimony would be timed at the July 27 and August 10 meetings. She noted that two minutes was not adequate time.

Mayor Dirksen replied the Council at its study session before this meeting discussed time limits, and concurred to increase the time limit to three minutes per person.

Mr. Monahan explained how the City's timing system worked. He also noted that a press release would be issued tomorrow providing additional details about the public hearing process on July 27, and where staff materials would be accessible.

Written materials from citizens need to be received by noon on July 22 to be included in the Council packet. Written materials can still be brought to the meeting as well and would be distributed to Council.

Mr. Monahan gave Ms. Shumway a copy of the draft press release but noted some changes might be made before its final release.

- Ken Henschel, 14530 SW 144th Avenue, unincorporated Bull Mountain, expressed concern about the June 22 Council meeting, regarding the "hearing" on the annexation white papers. He stated Mayor Dirksen "opened the public hearing," but then chastised people in the hearing. He asked for clarification on whether that was a public hearing or not because it sounded like it was.

Mayor Dirksen explained it was not a legally required land use action requiring a public hearing. He apologized to citizens if they felt he had chastised them in any way.

City Attorney Gary Firestone explained that legally, Council was not required to hold a public hearing on the white papers, as it was not a land use issue, but had indicated the Council would take public comment from citizens on the white papers. The term "public hearing" is used when public comments are taken. City Attorney Firestone explained that the decision on June 22 was to approve a resolution accepting the white papers, which is not a land use decision. The proceeding on July 27 is a public hearing on a land use issue.

Mr. Henschel stated he was disappointed in the way citizens were treated on June 22.

3. CONSENT AGENDA: Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adopt the Consent Agenda as follows:

- 3.1 Approve Council Minutes for June 8 and 15, 2004
- 3.2 Receive and File
 - a. Council Calendar
 - b. Tentative Agenda
- 3.3 Approve Budget Amendment #1 to Increase Appropriations for Funding of the SEIU Labor Agreement and Management Cost-of-Living – Resolution No. 04 - 49
- 3.4 Initiate Action to Transfer Jurisdiction of Certain County Roads Within the City to the City – Resolution No. 04 - 50
- 3.5 Local Contract Review Board:
 - a. Award Contract for Moving Services to Lile Relocation Services

- b. Award Contract for the Construction of 100th Avenue and Murdock Street Sanitary Sewer (Sewer Reimbursement District No. 27) to Dunn Construction, Inc.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

- 3.5 c. Award Contract for City Labor Attorney Services to Bullard, Smith, Jernstedt, Wilson and Authorize City Manager to execute

Councilor Sherwood declared a potential conflict of interest as her cousin was married to an attorney working for Bullard, Smith, Jernstedt, Wilson, and would therefore abstain from participating in discussion and voting on this matter.

Motion by Councilor Woodruff, seconded by Councilor Moore, to approve award of contract for City Labor Attorney Services to Bullard, Smith, Jernstedt, Wilson and Authorize the City Manager to execute the contract.

The motion was approved by the following vote of those present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Abstain
Councilor Woodruff	-	Yes

4. TUALATIN VALLEY TELEVISION

Marci Hosier, Executive Director of Tualatin Valley Television (TVTV), stated this was an annual report she was presenting to all member jurisdictions of TVTV. She then introduced Paul Sander, chair of the Board of Tualatin Valley Television.

Paul Sander stated he was elected Chair of the Board in January, and indicated he and Ms. Hosier was visiting all the member jurisdictions. He continually is impressed with the dedication of staff and volunteers to produce programs. He thanked the City of Tigard for its support of TVTV.

Ms. Hosier presented a fact sheet (Council Agenda Item No. 4, Exhibit 1), and then read a statement (Council Agenda Item No. 4, Exhibit 2). Copy on file in City Recorder's Office.

Councilor Woodruff asked if cable broadcasts could be seen on satellite television.

Ms. Hosier explained that cable television was a franchise while satellite television was a franchised industry. Until that status changed, cable television shows would not be available via satellite.

5. UPDATE ON THE NEW TIGARD LIBRARY

Library Director Margaret Barnes presented a PowerPoint presentation on the progress of library construction and explained this should be the final presentation prior to physically moving the library collection to the new building. Ms. Barnes pointed out that the current library would be closing at 5 p.m. July 16 in order to begin moving to the new facility. The new facility should open sometime during the week of August 2, with the grand opening on August 21.

Councilor Sherwood announced the Tigard Rotary and the Tigard Area Chamber of Commerce will hold a pre-grand opening event on July 30 to celebrate the reopening of the library. Tickets are \$35 with a portion of the proceeds being donated to the library to be used to buy library furnishings. She noted that in addition to refreshments and music, there will be guided tours of the new library including areas that generally are not seen by the public.

Councilor Moore pointed out when he first ran for city council eight years ago, he toured the present library and had commented at that time that a new library was needed.

6. CONSIDER AN ORDINANCE GRANTING A NON-EXCLUSIVE GAS UTILITY FRANCHISE TO NORTHWEST NATURAL

Finance Director Craig Prosser presented his staff report and a PowerPoint presentation. The PowerPoint is on file in the City Recorder's office.

Councilor Moore asked what was the status of hiring the right-of-way manager position Council approved in the current budget.

Mr. Monahan explained the right-of-way manager position was approved by City Council in the Engineering Department. The Human Resources Department reviewed the specifications for the position within the market and the City's compensation package. The opening was advertised, applications received, and a pool of applicants interviewed by representatives from the Engineering, Finance and Human Resources Department. At the end of the process, staff was not satisfied with the pool of applicants, and sent it back to Human Resources Department as everyone felt a higher

compensation and higher expectations was required. This is not a common position.

Mr. Prosser agreed with Mr. Monahan's comments.

Motion by Councilor Moore, seconded by Councilor Sherwood, to adopt Ordinance No. 04-06.

ORDINANCE NO. 04-06 – AN ORDINANCE GRANTING A NON-EXCLUSIVE GAS UTILITY FRANCHISE TO NW NATURAL AND FIXING TERMS, CONDITIONS, AND COMPENSATION OF SUCH UTILITY AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES THAT CONFLICT HERewith, AND DECLARING AN EMERGENCY.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

NOTE: Item No. 8 was considered at this time.

8. CONSIDER A RESOLUTION COMMENDING THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE FOR A JOB WELL DONE

City Engineer Gus Duenas explained that the Transportation Financing Strategies Task Force completed their tasks. The Committee was comprised of Beverly Froude (Chair), Paul Owen (Vice Chair), Cam Gilmour, Mayor Craig Dirksen, Councilor Brian Moore, Joe Schweitz; Planning Commission Representative Glenn Mores, Planning Commission Representative John Olsen, and Steve Clark.

Motion by Councilor Woodruff, seconded by Councilor Sherwood, to approve Resolution No. 04-51.

RESOLUTION NO. 04-51 – A RESOLUTION TO ACKNOWLEDGE THE ACCOMPLISHMENTS OF THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE, TO DECLARE THIS PHASE OF THE TASK FORCE WORK AS COMPLETED, AND TO COMMEND THE TASK FORCE MEMBERS FOR A JOB WELL DONE.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

Mayor Dirksen noted in addition to himself and Councilor Moore, Beverly Froude and Joe Schweitz were present at tonight's meeting; city pins were presented to Ms. Froude and Mr. Schweitz.

7. **CONSIDER A RESOLUTION RECONSTITUTING THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE**

City Engineer Duenas explained that the Transportation Financing Strategies Task Force needs to continue with the task force of evaluating funding strategies for major street improvements and several members of the original committee were unable to continue. In addition, there will be increased representation from the business community on the Task Force. Members of the Task Force will include Beverly Froude, Paul Owen, Cam Gilmour, Councilor Nick Wilson, Joe Schweitz; Planning Commission Representative Gretchen Buehner, Basil Christopher, and Steve Clark. Representing the Oregon Grocery Association on the Task Force will be Joe Gilliam as the primary member with Dan Floyd as the Association's alternate. In addition, the Tigard Area Chamber of Commerce and the Washington Square properties will both recommend representatives. Those appointments will be brought to Council at a later date.

Motion by Councilor Moore, seconded by Councilor Woodruff, to approve Resolution No. 04-52.

RESOLUTION NO. 04-52 – A RESOLUTION TO RECONSTITUTE THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE TO EXPLORE FEASIBLE FUNDING STRATEGIES FOR MAJOR TRANSPORTATION IMPROVEMENTS, PRESENT FINDINGS, PROVIDE RECOMMENDATIONS TO CITY COUNCIL ON THOSE STRATEGIES THAT SHOULD BE FURTHER PURSUED, AND ASSIST IN THE DEVELOPMENT AND IMPLEMENTATION OF THOSE STRATEGIES.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

Mayor Dirksen noted in addition to previous members Beverly Froude and Joe Schweitz recognized earlier, new members present were Basil Christopher and Gretchen Buehner. Mayor Dirksen presented city pins to the new Task Force members.

NOTE: Item No. 8 was considered before Item No. 7.

8. CONSIDER A RESOLUTION COMMENDING THE TRANSPORTATION FINANCING STRATEGIES TASK FORCE FOR A JOB WELL DONE

9. RECEIVE INFORMATION ON SECOND ANNUAL NATIONAL NIGHT OUT

Police Public Information Officer Jim Wolf presented a PowerPoint Presentation. The PowerPoint is on file in the City Recorder's Office. Mr. Wolf noted the National Night Out is held the first Tuesday of August each year and that neighborhood groups are encouraged to pre-register to ensure someone from the Police Department or the Tualatin Valley Fire & Rescue can be available to attend every neighborhood event. An application can be downloaded from the City of Tigard website on the Police Department's homepage.

10. PUBLIC HEARING (QUASI-JUDICIAL) – PUBLIC RIGHT-OF-WAY STREET VACATION FOR SW 72ND AVENUE (VAC 2004-00001)

The Tigard City Council considered the proposed vacation involving an approximately 4,387 square foot portion of SW 72nd Avenue, near the intersection of SW 72nd Avenue and Bridgeport Road.

The portions of SW 72nd Avenue that have been requested to be vacated are to the southwest of the Borders/Bed Bath and Beyond commercial center. The reason for the vacation request is for the realignment of SW 72nd Avenue in connection with the relocation of the Bridgeport Village restaurant and the Durham Quarry commercial center. The applicant's client, Opus Northwest has been approved for Site Development Review for a new access into the Borders/Bed Bath and Beyond commercial center (SDR2003-00017) in conjunction with the relocation of the Bridgeport Village restaurant. The approval has been conditioned upon the successful completion of the requested vacation.

The majority of the land underlying the former right-of-way is within the jurisdiction of the City of Tualatin. However, the three small segments (0.1 acres total) are subject to Tigard's jurisdiction. With the successful vacation of the requested right-of-way, the subject square footage would be incorporated into adjoining parcels within the City of Tigard.

The request was filed with the City on March 17, 2004 and initiated by the City Council at the request of the applicant on May 11, 2004.

City Attorney Firestone read the opening statement regarding the conduct of the public hearing.

a. Open Public Hearing

Mayor Dirksen opened the public hearing.

b. Declarations or Challenges

City Attorney Firestone read the following questions:

- Do any members of Council wish to report any ex parte contact or information gained outside the hearing, including any site visits?

Councilor Moore stated he drove this route every day.

- Have all members familiarized themselves with the application?

All members indicated they were familiar with the application.

- Are there any challenges from the audience pertaining to the Council's jurisdiction to hear this matter or is there a challenge on the participation of any member of the Council?

There were no challenges.

c. Staff Report: Community Development Department

Community Development Director Jim Hendryx presented the staff report and relayed that staff recommended approving the vacation.

d. Public Testimony

Mayor Dirksen read the following:

For all those wishing to testify, please be aware that failure to raise an issue accompanied by statements or evidence sufficient to afford the Council and parties an opportunity to respond to the issue will preclude an appeal to the Land Use Board of Appeals on this issue. Testimony and evidence must be directed toward the criteria described by staff or other criteria in the plan or land use regulation which you believe apply to the decision.

There was no public testimony.

e. Staff Recommendation

Mr. Hendryx stated that staff recommended approval the vacation.

f. Council Questions

Mayor Dirksen asked when the replacement right-of-way would be transferred to the City.

Mr. Hendryx replied it would be sometime after the project was completed.

g. Close Public Hearing

Mayor Dirksen closed the public hearing.

h. Council Consideration:

Motion by Councilor Moore, seconded by Councilor Sherwood, to approve Ordinance No. 04-07.

ORDINANCE NO. 04-07 – AN ORDINANCE CONCERNING THE VACATION OF AN APPROXIMATELY 4,387 SQUARE FOOT PORTION OF PUBLIC RIGHT-OF-WAY BETTER KNOWN AS SW 72ND AVENUE WHICH LIES TO THE SOUTHWEST OF THE BORDERS/BED BATH AND BEYOND COMMERCIAL CENTER, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2004-00001), AND DECLARING AN EMERGENCY.

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

11. PUBLIC HEARING (INFORMATIONAL) – CONSIDER RESOLUTION FORMING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 30 (SW 121st Avenue)

a. Mayor Dirksen opened the public hearing

b. Summation by Engineering Staff

City Engineer Duenas introduced this item and gave a brief PowerPoint presentation on this Sanitary Sewer Reimbursement District. Mr. Duenas relayed the main points of the sewer reimbursement district incentive program. He noted that an existing sewer line runs in front of three lots on the south end of the project. These lots will be charged for the cost of the lateral installation only. The other 67 lots will participate fully in the reimbursement district.

Mr. Duenas explained the incentive program, stating the cost can be reduced to \$6,000 to the extent that the charge did not exceed \$15,000 if connection is made within three years after service becomes available. The amount over \$15,000 can be deferred upon request until development occurs. Each owner would also be required to pay the \$2,535 connection and inspection fee, which funds treatment facility construction. The average bi-monthly service charge will be \$50 which covers operation and maintenance of the entire system. If Council approves the proposal, the project is anticipated to be constructed this summer and completed by October. Council will then hold a hearing to finalize the project. Staff recommends that Council approve the resolution to form the Reimbursement District No. 30 (SW 121st Avenue).

c. Public Testimony

- Lorraine Bettencourt, 13240 SW 121st Avenue, Tigard, Oregon, explained she and her husband own the largest lot in the proposed district on 121st Avenue (Tax Lot ID 2S103CA00303 with 51,494 sq. feet) and the estimated cost to them is \$35,660. During the past 24 years, the entire house was rebuilt inside, and there is a barn and shop on the property and they have no desire to develop additional homes on their property. She did not understand why the assessment was based on square footage instead of frontage, as their frontage is about the same as everyone else. Ms. Bettencourt asked what the average life span of a septic tank was, whether their septic tank could last more than 15 years and if the city had a program available to help them with the cost.

Mr. Duenas replied that was why the City adopted its incentive program. If they just wanted to hook on and not develop the rest of the property, all they would pay is \$6,000. The rest of the \$15,000 would be deferred until the property was developed. The intent is to give a break to those who have large pieces of property that just has one house they want to hook to the sewer. At the time the owner/developer filed the land use application, the rest of the deferred amount would be due. The reason for that is that the Bettencourt's could build up to four homes on the property. That one payment would cover the development costs to bring sewer to the area. There is a break they would receive if they hooked up to sewer within three years after the project is complete. That was why Council approved the incentive program.

Ms. Bettencourt asked Mr. Duenas if they were only to hook up their house and not develop the property, their cost would be \$6,000.

Mr. Duenas replied that was correct but they would be required to physically request a deferral of any amount over \$15,000. He did not feel there would be any reason the City would not grant that request if they were just hooking up the existing house. They would also have to take advantage of this program within

three years after the final resolution was approved. If they don't, then they would be required to pay the full amount of \$35,000 plus interest. It is therefore to the property owner's advantage to hook up to the sewer line within that three-year period.

Richard Bettencourt, 13240 SW 121st Avenue, asked if there was a payment plan available.

Mayor Dirksen explained most homeowners could obtain a home equity line of credit in order to pay their assessment. He further explained that with large lots like the Bettencourt's, there is the possibility to subdivide and develop the property with four residences; they could then pass that cost onto the cost of developing the property. Everyone pays the minimum amount of \$6,000, as well as the hook-up charge of \$2,500.

Ms. Bettencourt asked what the average life of a septic tank is and whether the Council thought their septic tank would last through the 15 years. The house was built in 1908.

Councilor Moore suggested they contact a septic tank service to check their septic tank system out.

Mr. Duenas pointed out to the Bettencourt's that if their septic tank failed and the sewer was available, they would be required to hook up to the sewer, not upgrade the septic tank. The life of most septic tanks was between 20 and 50 years.

Mr. Monahan explained that the assessment clock did not start tonight if this resolution is approved, as the clock begins after the project is constructed, the final construction costs determined, and another hearing held to finalize the formation of the district at which time a resolution would be considered for approval to spread the costs to all the affected properties. The resolution before Council tonight shows the estimated cost to each property owner in the proposed district.

Ms. Bettencourt asked how much of their property would be required to accommodate the sewer line.

Mr. Duenas replied 121st Avenue was proposed to be widened, but the City wanted to build the sewer line first. Plans were still being prepared for the proposed widening. After the plans were complete, the City would begin negotiations with affected property owners to acquire the necessary right-of-way for the street widening project.

Mr. Monahan noted if property owners do not pay the full assessment cost, the remaining amount accrues interest at the annual interest rate of 6.05% per year. This rate is part of a resolution adopted by City Council in 1998.

Ms. Bettencourt asked for clarification of the process, and whether the cost that is shown in the resolution as a preliminary estimate would remain the same or change after the project is constructed.

Mr. Monahan explained the actual cost of construction would not be known until the project is complete. After construction is completed, the Engineering staff will determine the total cost of the project, and spread the cost to all affected properties. The Council will hold a hearing to finalize the formation of the district and all affected property owners will receive a notice of that hearing and the amount of the final assessment. He pointed out if for example, the final assessment for their property was \$35,660 (which could change due to the actual cost of the project of putting the lines in the street), when the \$9,000 is deducted (which the City pays if the Bettencourt's participates in the incentive program by paying the \$6,000 in the first three years), the Bettencourt's balance of \$20,000 could remain deferred until later on when and if they decided to building additional homes. The \$20,000 would accrue interest on an annual basis however.

Mayor Dirksen confirmed this program provides an incentive to the property owners to hook up to the sewer within three years. If they decide to develop the property and sell to a developer, that cost could be included as a condition of sale that the developer would be required to pay the remaining costs.

Mr. Monahan explained the key for them would be to lock in the first connection within the first three years and save the \$9,000 of the City's contribution from the dedicated sewer fund as an incentive for people to hook up. After the project is complete, all property owners will receive another notification of the final assessment and the date of the hearing.

Mr. Bettencourt asked if they would still be required to pay the remainder of the \$26,660.

Mr. Duenas explained that the remaining fee would be required to be paid at the time the building permit was applied for when developing the rest of the property.

Mr. Bettencourt asked if they could pay the \$6,000 fee but continue using their septic tank.

Mr. Monahan explained that when a property owner pays the \$6,000 assessment and the connection charge, the property owners were required to have the lateral

connection made and disconnect their septic tank connection. He explained this was why they needed a professional to look at their system and given them advice.

d. Staff Recommendation

Mr. Duenas recommended approval of the resolution to establish Sanitary Sewer Reimbursement District No. 30.

e. Council Discussion

Mayor Dirksen noted difference of lot sizes also caused a difference in the amounts that each property owner would be required to pay, but the city provided an incentive to connect to the sewer in order for property owners to save money.

f. Mayor Dirksen closed the public hearing.

g. Council Consideration: Resolution No. 04 - 53

Motion by Councilor Moore, seconded by Councilor Sherwood, to approve Resolution No. 04-53.

RESOLUTION NO. 04-53 – A RESOLUTION ESTABLISHING SANITARY SEWER REIMBURSEMENT DISTRICT NO. 30 (SW 121ST AVENUE).

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

- Edward Bergstrom, 12165 SW Marion Street, Tigard, Oregon, suggested the City prepare flyers to be given to affected property owners to explain the proposed project and the incentive program that was available to property owners.

12. COUNCIL LIAISON REPORTS

Councilor Sherwood stated she made her report under Item No. 5, relating to the Pre-Grand Opening Party at the library sponsored by Tigard Rotary and Tigard Area Chamber of Commerce.

13. NON AGENDA ITEMS

CONSIDER CITY MANAGER'S EMPLOYMENT AGREEMENT

a. Staff Report

Mr. Monahan provided the Council with background information on this item.

b. Council Discussion
There was no discussion.

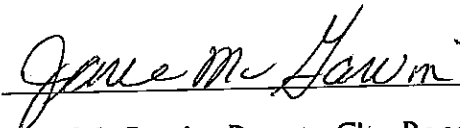
c. Council Consideration:

Motion by Councilor Moore, seconded by Councilor Sherwood, to authorize the Mayor to execute the City Manager's Employment Agreement.


The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Woodruff	-	Yes

The meeting adjourned at 9:20 p.m.


Jane McGarvin, Deputy City Recorder

Attest:


Mayor, City of Tigard

Date: August 10, 2004

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